

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

LARRY E. SHERFEY) Civil Action No.:
)
 Plaintiff,)
)
 v.)
)
)
 BIG RED, INC.)
)
 Defendants.)

ANSWER

The Defendant, Big Red, Inc., by and through its undersigned attorneys, answers Plaintiff's Complaint as follows:

ONE: Defendant denies each and every allegation set forth in Plaintiff's Complaint not herein after admitted and demands strict proof thereof.

FOR A FIRST DEFENSE

TWO: Defendant, upon information and belief, admits Paragraphs One (1), Two (2) and Three (3).

THREE: Answering Paragraph Four (4) of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the allegation contained therein, and therefore can neither admit or deny the same.

FOUR: Defendant denies Paragraphs Five (5).

FIVE: Answering Paragraph Six (6), Defendant is informed and believed that said paragraph sets forth conclusions of law to which this Defendant is not required to respond.

SIX: Defendant denies Paragraphs Seven (7), Eight (8), Nine (9) including all subparts, Ten (10), Eleven (12) and Twelve(12).

FOR A SECOND DEFENSE

SEVEN: Defendant realleges and reavers all matters set forth in Paragraphs One (1) through Six (6) as if repeated verbatim herein.

EIGHT: Defendant, without admitting, but specifically denying, that Defendant was negligent or careless, as alleged in the Complaint, alleges that even if this Defendant was negligent or careless, which it denies, that Plaintiff was guilty of negligence or carelessness which was greater than the negligence or carelessness of Defendant and which proximately caused the Plaintiff's injuries and damages, if any, so as to bar recovery herein pursuant to the doctrine of comparative negligence and, alternatively, Plaintiff was guilty of negligence or carelessness equal to or less than the negligence or carelessness of defendant and which proximately caused the Plaintiff's injuries and damages, if any, so as to reduce proportionately Plaintiff's recovery herein pursuant to the doctrine of comparative negligence.

FOR A THIRD DEFENSE

NINE: Defendant realleges and reavers all matters set forth in Paragraphs One (1) through Nine (9) as if repeated verbatim herein.

TEN: Plaintiff's claim for punitive damages, and any award thereof, would violate the due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution and the due process clause of Article I, Section 3 of South Carolina Constitution.

WHEREFORE, the Defendant, Big Red, Inc., having fully answered the Complaint of the Plaintiff , prays that the same be dismissed with prejudice and without costs to this Defendant.

Dated this 10th day of February, 2010.

ELMORE & WALL, P.A.

s:/Mark H. Wall

Mark H. Wall (No. 4501)
145 King Street
Post Office Box 1200
Charleston, South Carolina 29402
(843-329-9500
Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned employee of ELMORE & WALL, P.A. hereby certifies that on this 10th day of February, 2010 he served a copy of **ANSWER TO COMPLAINT** by electronic mail, following this Court's ordinary practice, with which he is readily familiar and addressed to the persons hereinafter named, at the places and addresses stated below, which are the last known address, in Charleston, South Carolina:

ADDRESS(ES):

Christopher J. McCool, Esquire
The Joye Law Firm, L.L.P.
5861 Rivers Avenue, Suite 101
North Charleston, South Carolina 29406

ATTORNEYS FOR PLAINTIFF

s:/Mark H. Wall
Mark H. Wall (#4501)